

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PARVIZ LAVI,

Plaintiff,

-against-

DWS; DEUTSCHE BANK,

Defendant.

22-CV-7501 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff filed this action *pro se* and *in forma pauperis*. By order dated October 7, 2022, the Court directed Plaintiff to file an amended complaint within 60 days, and warned Plaintiff that failure to comply would result in dismissal of the complaint. (ECF 4.) Because Plaintiff failed to file an amended complaint or otherwise communicate with the Court, the matter was dismissed for lack of subject matter jurisdiction on January 26, 2023. (ECF 5, 6.) On February 14, 2023, Plaintiff submitted a letter stating that he never received the October 7, 2022 order to amend, attached to which are documents that could arguably be construed as an amended complaint. (ECF 7.) On August 1, 2023, Plaintiff filed a motion for an extension of time to file a notice of appeal. (ECF 8.)

The Court construes Plaintiff's February 14, 2023 letter and attachments as a motion under Rule 60 of the Federal Rules of Civil Procedure, which authorizes the Court to relieve a party from a final judgment for "any [] reason that justifies relief." In light of Plaintiff's *pro se* status, and because Plaintiff claims that he never received the Court's October 7, 2022 order, the motion for relief from a final judgment is granted. The Court's February 14, 2023 order and judgment are vacated, and Plaintiff's complaint is reinstated. The request for an extension of time to appeal is denied as moot.

CONCLUSION

Plaintiff's motion under Rule 60 of the Federal Rules of Civil Procedure is granted. The Court's January 26, 2023 order and judgment are vacated. The Clerk of Court is directed to reopen this case. The Clerk of Court is further directed to mail to Plaintiff, in addition to a copy of this order, a copy of the October 7, 2022 order to amend. (ECF 4.)

The motion for an extension of time to file a notice of appeal is denied as moot, and the Clerk of Court is directed to terminate it. (ECF 8.)

The Court grants Plaintiff leave to file an amended complaint, should he wish to do so, that complies with the standards set forth in the October 7, 2022 order to amend. (ECF 4.) Plaintiff must submit the amended complaint to this Court's Pro Se Intake Unit within 30 days of the date of this order, caption the document as an "Amended Complaint," and label the document with docket number 22-CV-7501 (LTS). An Amended Complaint form is attached to this order. No summons will issue at this time. If Plaintiff fails to file an amended complaint within the time allowed, and cannot show good cause to excuse such failure, the Court will construe the documents attached to the February 14, 2023 letter as the amended complaint. No further extensions of time will be granted.¹

¹ Although Plaintiff is proceeding *pro se*, he is a frequent litigator, and the Court expects him to monitor his cases and comply with filing deadlines. *See Sledge v. Kooi*, 564 F.3d 105, 109-110 (2d Cir. 2009) (discussing circumstances where frequent *pro se* litigant may be charged with knowledge of particular legal requirements).

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: December 15, 2023
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

____ Civ. _____ (____)

(In the space above enter the full name(s) of the plaintiff(s).)

**AMENDED
COMPLAINT**

-against-

Jury Trial: Yes No
(check one)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

I. Parties in this complaint:

- A. List your name, address and telephone number. If you are presently in custody, include your identification number and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name _____
Street Address _____
County, City _____
State & Zip Code _____
Telephone Number _____

- B. List all defendants. You should state the full name of the defendant, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

Defendant No. 2 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

Defendant No. 3 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

Defendant No. 4 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

II. Basis for Jurisdiction:

Federal courts are courts of limited jurisdiction. Only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount in damages is more than \$75,000 is a diversity of citizenship case.

A. What is the basis for federal court jurisdiction? (*check all that apply*)

Federal Questions Diversity of Citizenship

B. If the basis for jurisdiction is Federal Question, what federal Constitutional, statutory or treaty right is at issue? _____

C. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party?

Plaintiff(s) state(s) of citizenship _____

Defendant(s) state(s) of citizenship _____

III. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. Where did the events giving rise to your claim(s) occur? _____

B. What date and approximate time did the events giving rise to your claim(s) occur? _____

C. Facts: _____

What
happened
to you?

Who did
what?

Was anyone
else
involved?

Who else
saw what
happened?

IV. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. _____

V. Relief:

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking, and the basis for such compensation.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this ____ day of _____, 20____.

Signature of Plaintiff

Mailing Address

Telephone Number

Fax Number (if you have one)

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint. Prisoners must also provide their inmate numbers, present place of confinement, and address.

For Prisoners:

I declare under penalty of perjury that on this _____ day of _____, 20_____, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

Inmate Number